



September 14, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Washington DC 20554

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**SEP 14 1998**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996; CC Docket 98-146.

Dear Ms. Salas:

Attached are the original and four copies of the comments of NorthPoint Communications regarding the Commission's Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket 98-146.

Sincerely,

Steven Gorosh  
Vice President & General Counsel

Rec'd 024  
SEP 14 1998

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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**SEP 14 1998**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of )  
)  
Inquiry Concerning the Deployment of )  
Advanced Telecommunications )  
Capability to All Americans in a Reasonable )  
And Timely Fashion, and Possible Steps )  
To Accelerate Such Deployment )  
Pursuant to Section 706 of the )  
Telecommunications Act of 1996 )

CC Docket 98-146

**COMMENTS OF NORTHPOINT COMMUNICATIONS, INC.**

NorthPoint Communications, Inc. is a competitive local exchange carrier ("CLEC") founded on the principle underlying section 706: that American consumers need broadband access. NorthPoint is focused exclusively on providing broadband access using a proven form of xDSL technology known as SDSL, and intends to rollout service in more than twenty states over the next two years. NorthPoint is well along the way to that goal, with service already available in San Francisco, Los Angeles and Boston.<sup>1</sup>

Since its inception in mid-1997, NorthPoint has successfully raised millions of dollars in capital from leading venture capital firms and corporate investors. This willingness to invest in xDSL CLECs like NorthPoint demonstrates the private sector's confidence that xDSL services will play a crucial role in satisfying consumers' bandwidth needs, and that access to capital is not a constraint on widespread deployment of xDSL technology.

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<sup>1</sup> A map of NorthPoint's coverage in these cities is available at NorthPoint's web site: <[www.northpointcom.com](http://www.northpointcom.com)>

## **I. NORTHPOINT'S SDSL SERVICE FILLS THE HISTORICAL "BANDWIDTH GAP"**

Historically, residential and small business consumers have had few broadband access alternatives. T-1 access (1.544Mbps) has been too expensive, while dial-up service (at best 56Kbps) is both slow and cumbersome. DSL provides consumers with a range of options to fill this gap. Currently, NorthPoint offers SDSL service at 44Kbps, 160Kbps, 200Kbps, 416Kbps, 784Kbps and 1.04Mbps, allowing consumers to obtain broadband access up to T-1 speeds at a fraction of the cost. NorthPoint's service allows consumers to select the speed most appropriate to their needs, and upgrade to a faster speed without investing in additional wires or technology.

To provide its SDSL service, NorthPoint obtains unbundled copper loops and collocation space from the incumbent local exchange carriers ("ILECs"). NorthPoint places an xDSL modem on the consumer's premises, and collocates an xDSL multiplexer (a "Digital Subscriber Line Access Multiplexer" or "DSLAM") in the ILEC central office. Traffic from the customer premises is carried over the unbundled loop to the DSLAM, where it is aggregated with other customer traffic. The aggregated traffic is then delivered to NorthPoint's ATM switch and handed-off to the Internet Service Provider selected by the consumer.

Using its SDSL product, NorthPoint can serve consumers located up to 24,000 feet from the central office.<sup>2</sup> NorthPoint anticipates that these technical barriers will be gradually eliminated over time and that xDSL technology (or some successor technology) ultimately will allow NorthPoint to serve many customers that are currently out of reach.

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<sup>2</sup> NorthPoint can serve consumers up to 36,000 feet from the central office with its IDSL service, which is limited to 160 Kbps.

Even if the distance obstacle is eliminated, NorthPoint still will require collocation space and copper loops in order to serve customers. ILECs are claiming, however, that collocation space in ILEC central offices is a scarce commodity and is already exhausted in certain downtown and suburban areas. NorthPoint has proposed that the ILECs be required to submit detailed floor plans to state commissions and interested CLECs wherever they contend space for physical collocation is unavailable, that ILECs remove obsolete equipment and non-critical administrative offices in central offices to increase the amount of space available for collocation, and that the ILECs be prohibited from warehousing central office space for themselves. NorthPoint supports the Commission's tentative conclusion to adopt such requirements. Memorandum Opinion and Order, and Notice of Proposed Rulemaking, Deployment of Wireline Services Offering Advanced Telecommunications Capability, CC Docket 98-147 at ¶¶ 146-149, (Aug. 7, 1998) ("Section 706 Order").

NorthPoint also is exploring ways of handling this shortage through innovative arrangements such as shared collocation (sharing a collocation cage with another CLEC), common collocation (collocating equipment in a common area shared with many other CLECs), and contiguous collocation (collocating in an adjacent building and running cables to the ILEC central office). NorthPoint wholeheartedly supports this Commission's proposal to promote the widespread availability of broadband services by adopting rules that ensure the availability of alternative collocation arrangements at a reasonable cost. Section 706 Order at ¶¶ 139-143.

Another crucial ingredient of CLEC xDSL service is copper loops. NorthPoint needs clean copper loops from the ILECs that are free of load coils and bridge taps, or, in

the alternative, an alternate copper pair free of these impediments. Where a location is served by a digital loop carrier ("DLC"), NorthPoint must obtain an alternate copper loop that serves the same location or request that the ILEC move an existing service provided over a copper loop to the DLC, thereby freeing up the copper loop for DSL service.<sup>3</sup> NorthPoint applauds the Commission's tentative decision to address these issues, see Section 706 Order at ¶¶ 169-171, and hopes the Commission will affirm xDSL CLECs' ability to obtain copper loops in the pending Section 706 proceedings.

In just a few months, NorthPoint has been able to successfully deploy its SDSL service in three markets. NorthPoint is now adding new cities at the rate of almost one per month. In NorthPoint's experience, neither technical factors nor access to capital is a constraint on widespread deployment of xDSL service. Moreover, ILEC-imposed charges and policies that limit widespread deployment of xDSL service can be easily remedied by appropriate regulatory intervention. For this reason, NorthPoint supports the rules the Commission proposed in its Section 706 Order, and anticipates that adoption of uniform loop and collocation standards based on "best practices" will promote wider deployment of xDSL services. Adoption of rules like these will ensure that competition for broadband services flourishes, to the benefit of all Americans.

## **II. INFLATED RATES FOR WHOLESALE INPUTS ARE THE GREATEST BARRIER TO WIDESPREAD XDSL DEPLOYMENT**

With no technical or financial constraints, the greatest barrier to widespread deployment of xDSL service is the inflated prices charged by ILECs for unbundled network elements. NorthPoint's efforts to serve the residential market are currently being impeded by inflated prices for those unbundled network elements necessary to provide

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<sup>3</sup> NorthPoint also supports the Commission's decision to require sub-loop unbundling, where alternate

xDSL service. Currently, the costs of these inputs are too high to make CLECs' xDSL services competitive with existing ILEC ADSL offerings.

Many ILECs are charging as little as \$50 for ADSL service, including unlimited Internet access. Despite its low cost structure, arbitrarily inflated input prices prevent NorthPoint from reaching these prices. In fact, the ILECs' prices are possible only because they have failed to reflect any loop or collocation costs in the prices for their ADSL services. In other words, despite charging competitors excessive collocation and loop costs, the ILECs' ADSL tariffs fail to include a single penny reflecting these costs. For competition to flourish, the ILECs must be required to impute these collocation and loop costs – just like their competitors – or, in the alternative, reduce loop and collocation charges.

Without such pro-competitive steps, the ILECs will be able to impede competition and slow the deployment of broadband alternatives. In Texas, for instance, Southwestern Bell charges NorthPoint \$35 per month for an unbundled digital loop necessary to provide xDSL service. Just as significant are collocation charges. Nationwide, these average over \$50,000 and routinely exceed \$100,000. As a consequence of these inflated prices, it is virtually impossible for xDSL CLECs like NorthPoint to provide a service that is price-competitive.<sup>4</sup> In fact, xDSL CLECs routinely spend more than \$50 per consumer for loop and collocation, before recovering costs for overhead and equipment.

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copper facilities are not available. Section 706 Order at ¶¶ 173-176.

<sup>4</sup> Some ILECs are further reducing their prices for ADSL service by bundled voice and ADSL over a single loop and loading all the costs of the loop onto the voice portion of the service. ILECs have effectively prohibited CLECs from offering this type of bundled product by refusing to accept split-off voice traffic from xDSL CLECs. This arbitrary restriction needs to be remedied in order to ensure that CLECs can provide cost-effective residential xDSL service.

Competition would truly flourish if CLECs could obtain digital loops for less than \$3 – as in Illinois – and collocation for \$10,000 per cage – as in Georgia.

Currently, however, ILECs are able to “price squeeze” their competitors by inflating the costs of loops and collocation at the state level (which increases the CLECs’ costs) while failing to include any of these costs in the federal tariffs for their own ADSL service.<sup>5</sup> To avoid this anticompetitive incentive, the Commission should require the ILECs to impute the cost of loops and collocation into their own ADSL tariff prices.<sup>6</sup> This will level the playing field and give the ILECs an incentive to reduce the prices of loops and collocation to non-inflated levels. So doing will allow consumers to reap the benefits of vigorous competition from innovative xDSL CLECs.

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<sup>5</sup> A price squeeze exists whenever a competitor that is equally efficient at providing the competitive portions of a service cannot, without losing money, meet the incumbent’s retail price given the price(s) that it must pay to the incumbent for any bottleneck input(s) available only from the incumbent. A price squeeze can be the result of the markup over direct economic cost that the incumbent imposes for bottleneck inputs that both it and the competitor use or the incumbent’s imposition of costs on the competitor that the incumbent does not bear at all. To avoid a price squeeze, the incumbent’s retail price must equal or exceed the sum of the price that it charges to competitors for the bottleneck input(s) plus the total service long-run incremental cost of the competitively provided portions of the service. This rule is known as the “imputation” rule because the incumbent must “impute” the price(s) of the bottleneck input(s) into the price of its competing retail service. As this Commission has previously found, “... an imputation rule could help detect and prevent price squeezes ....” First Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, 11 FCC Rcd. 15499 (Aug. 8, 1996) (“First Interconnection Order”), ¶848.

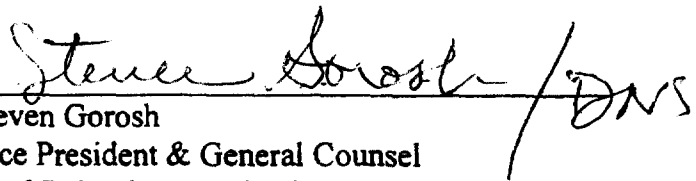
A competitor offering retail xDSL service must purchase an unbundled loop from ILECs. Therefore, proper application of the imputation rule requires that at least some part of the price of an unbundled loop be imputed into the ILECs’ tariffed rates for ADSL service. To date, the ILECs have neither included any loop costs in the cost they calculate for ADSL service nor imputed any part of the price it charges for unbundled loops into the tariffed price. It is critical at this nascent stage of DSL competition that ILECs not be allowed to establish below-cost rates that would stifle competition. NorthPoint and other DSL CLECs have built a business on delivering cost-effective data solutions to small business and residential users at prices well below current ILEC T1 rates. While NorthPoint shares a strong commitment to lower-cost data alternatives, it is aware of no legitimate public interest in below-cost pricing that stifles the development of vigorous competition.

<sup>6</sup> Price squeezes also can be avoided by requiring the ILEC to conduct its xDSL operations through a separate subsidiary that conducts all transactions with the ILEC at arm’s length. See Section 706 Order at ¶¶ 85-103.

## CONCLUSION

As explained above, there currently are no technical or financial constraints on NorthPoint's ability to provide its SDSL service. Moreover, the collocation and loop remedies the FCC has proposed in its pending Section 706 rulemaking should solidify CLECs' ability to deploy xDSL service quickly. Once these remedies are in place, the greatest constraints on widespread deployment of xDSL service will be inflated loop and collocation price imposed by ILECs that have failed to reflect the costs of these inputs in their own ADSL tariffs and thus lack any incentive to reduce them. Accordingly, the Commission should require ILECs to impute loop and collocation costs in their ADSL tariffs or require ILECs to conduct their ADSL operations through an "arm's length" separate subsidiary. This will ensure that ILECs and data CLECs are able to compete on equal terms, and also will give the ILECs an incentive to reduce the prices of the unbundled inputs necessary to provide xDSL service. Increased competition, lower prices, and more widespread deployment will result. Without such action, however, xDSL technology – the best and most immediate solution to the dearth of competition in the "last mile" – will not be affordable to all Americans. See Notice of Inquiry at ¶ 66.

Respectfully submitted,

  
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